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10 FIESTA DEL NORTE HOMEOWNERS
11 ASSOCIATION and ALESSI & KOENIG, LLC

8 **UNITED STATES DISTRICT COURT**

9 **DISTRICT OF NEVADA**

11 WELLS FARGO BANK, N.A., a national banking
12 association,

13 Plaintiff,

14 vs.

15 SFR INVESTMENTS POOL 1, LLC, a Nevada
16 limited liability company; FIESTA DEL NORTE
17 HOMEOWNERS ASSOCIATION, a Nevada
18 non-profit corporation; ALESSI & KOENIG,
19 LLC, a Nevada limited liability corporation,

20 Defendants.

Case No.: 2:15-cv-00800-GMN-CWH

**FIESTA DEL NORTE HOMEOWNERS
ASSOCIATION and ALESSI & KOENIG,
LLC'S ANSWER TO COMPLAINT**

21 **FIESTA DEL NORTE HOMEOWNERS ASSOCIATION and ALESSI & KOENIG,**
22 **LLC'S ANSWER TO COMPLAINT**

23 COME NOW, Defendants FIESTA DEL NORTE HOMEOWNERS ASSOCIATION and
24 ALESSI & KOENIG, LLC (hereinafter collectively referred to as "Defendants"), by and through their
25 attorney of record, Vanessa S. Goulet, Esq. of Alessi & Koenig, LLC, and files their Answer to
26 Plaintiff WELLS FARGO BANK, N.A.'s (hereinafter referred to as "Plaintiff") Complaint as follows:
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PARTIES, JURISDICTION, AND VENUE

1. Answering paragraph 1 of the complaint, answering defendants lack sufficient information or belief to admit or deny the allegations contained therein and, on that basis, generally and specifically deny said allegations.
2. Answering paragraph 2 of the complaint, answering defendants lack sufficient information or belief to admit or deny the allegations contained therein and, on that basis, generally and specifically deny said allegations.
3. Answering Paragraph 3 of the Complaint, answering defendants admit the allegations contained therein.
4. Answering Paragraph 4 of Complaint, answering defendants admit the allegations contained therein.
5. Answering paragraph 5 of the complaint, answering defendants lack sufficient information or belief to admit or deny the allegations contained therein and, on that basis, generally and specifically deny said allegations.
6. Answering paragraph 6 of the complaint, answering defendants lack sufficient information or belief to admit or deny the allegations contained therein and, on that basis, generally and specifically deny said allegations.
7. Answering paragraph 7 of the complaint, answering defendants lack sufficient information or belief to admit or deny the allegations contained therein and, on that basis, generally and specifically deny said allegations.
8. Answering paragraph 8 of the complaint, answering defendants lack sufficient information or belief to admit or deny the allegations contained therein and, on that basis, generally and specifically deny said allegations.

GENERAL ALLEGATIONS

- 1 9. Answering paragraph 9 of the complaint, answering defendants lack sufficient
2 information or belief to admit or deny the allegations contained therein and, on that
3 basis, generally and specifically deny said allegations.
- 4 10. Answering paragraph 10 of the complaint, answering defendants admit the allegations
5 contained therein.
- 6 11. Answering paragraph 11 of the complaint, answering defendants admit the allegations
7 contained therein.
- 8 12. Answering Paragraph 12 of the Complaint, answering defendants lack sufficient
9 information or belief to admit or deny the allegations contained therein and, on that
10 basis, generally and specifically deny said allegations.
- 11 13. Answering Paragraph 13 of the Complaint, answering defendants lack sufficient
12 information or belief to admit or deny the allegations contained therein and, on that
13 basis, generally and specifically deny said allegations.
- 14 14. Answering Paragraph 14 of the Complaint, answering defendants lack sufficient
15 information or belief to admit or deny the allegations contained therein and, on that
16 basis, generally and specifically deny said allegations.
- 17 15. Answering paragraph 15 of the complaint, answering defendants lack sufficient
18 information or belief to admit or deny the allegations contained therein and, on that
19 basis, generally and specifically deny said allegations.
- 20 16. Answering Paragraph 16 of the Complaint, answering defendants lack sufficient
21 information or belief to admit or deny the allegations contained therein and, on that
22 basis, generally and specifically deny said allegations.
- 23 17. Answering Paragraph 17 of the Complaint, answering defendants lack sufficient
24 information or belief to admit or deny the allegations contained therein and, on that
25 basis, generally and specifically deny said allegations.
- 26 18. Answering Paragraph 18 of the Complaint, answering defendants lack sufficient
27 information or belief to admit or deny the allegations contained therein and, on that
28 basis, generally and specifically deny said allegations.

17. Answering Paragraph 17 of the Complaint, answering defendants lack sufficient information or belief to admit or deny the allegations contained therein and, on that basis, generally and specifically deny said allegations.
18. Answering paragraph 18 of the complaint, answering defendants lack sufficient information or belief to admit or deny the allegations contained therein and, on that basis, generally and specifically deny said allegations.
19. Answering paragraph 19 of the complaint, answering defendants admit the allegations contained therein.
20. Answering paragraph 20 of the complaint, answering defendants admit the allegations contained therein.
21. Answering paragraph 21 of the complaint, answering defendants admit the allegations contained therein.
22. Answering Paragraph 22 of the Complaint, answering defendants admit the allegations contained therein.
23. Answering paragraph 23 of the complaint, answering defendants lack sufficient information or belief to admit or deny the allegations contained therein and, on that basis, generally and specifically deny said allegations
24. Answering Paragraph 24 of the Complaint, answering defendants admit the allegations contained therein.
25. Answering Paragraph 25 of the Complaint, answering defendants lack sufficient information or belief to admit or deny the allegations contained therein and, on that basis, generally and specifically deny said allegations.
26. Answering Paragraph 26 of the Complaint, answering defendants lack sufficient

information or belief to admit or deny the allegations contained therein and, on that basis, generally and specifically deny said allegations.

27. Answering paragraph 27 of the complaint, answering defendants lack sufficient information or belief to admit or deny the allegations contained therein and, on that basis, generally and specifically deny said allegations.

28. Answering Paragraph 28 of the Complaint, answering defendants lack sufficient information or belief to admit or deny the allegations contained therein and, on that basis, generally and specifically deny said allegations.

29. Answering Paragraph 29 of the Complaint, answering defendants generally and specifically deny the allegations contained therein.

30. Answering paragraph 30 of the complaint, answering defendants lack sufficient information or belief to admit or deny the allegations contained therein and, on that basis, generally and specifically deny said allegations.

31. Answering Paragraph 31 of the Complaint, answering defendants generally and specifically deny the allegations contained therein.

32. Answering paragraph 32 of the complaint, answering defendants generally and specifically deny the allegations contained therein.

33. Answering Paragraph 33 of the Complaint, answering defendants generally and specifically deny the allegations contained therein.

34. Answering Paragraph 34 of the Complaint, answering defendants generally and specifically deny the allegations contained therein.

35. Answering Paragraph 35 of the Complaint, answering defendants generally and specifically deny the allegations contained therein.

36. Answering Paragraph 36 of the Complaint, answering defendants generally and

specifically deny the allegations contained therein.

37. Answering Paragraph 37 of the Complaint, answering defendants generally and specifically deny the allegations contained therein.

38. Answering Paragraph 38 of the Complaint, answering defendants generally and specifically deny the allegations contained therein.

39. Answering paragraph 39 of the complaint, answering defendants generally and specifically deny the allegations contained therein.

40. Answering paragraph 40 of the complaint, answering defendants generally and specifically deny the allegations contained therein.

41. Answering Paragraph 41 of the Complaint, answering defendants lack sufficient information or belief to admit or deny the allegations contained therein and, on that basis, generally and specifically deny said allegations.

42. Answering Paragraph 42 of the Complaint, answering defendants lack sufficient information or belief to admit or deny the allegations contained therein and, on that basis, generally and specifically deny said allegations.

43. Answering Paragraph 43 of the Complaint, answering defendants generally and specifically deny the allegations contained therein.

44. Answering Paragraph 44 of the Complaint, answering defendants lack sufficient information or belief to admit or deny the allegations contained therein and, on that basis, generally and specifically deny said allegations.

FIRST CAUSE OF ACTION

**(Declaratory Relief under Amendment V to the United States Constitution -
Takings Clause - Against All Defendants)**

45. Answering paragraph 45 of the complaint, answering defendants incorporate by reference their prior responses to the allegations referenced in this paragraph.

1 46. Answering paragraph 46 of the complaint, answering defendants lack sufficient
2 information or belief to admit or deny the allegations contained therein and, on that
3 basis, generally and specifically deny said allegations.

4 47. Answering paragraph 47 of the complaint, answering defendants generally and
5 specifically deny the allegations contained therein.

6 48. Answering paragraph 48 of the complaint, answering defendants generally and
7 specifically deny the allegations contained therein.

8 49. Answering paragraph 49 of the complaint, answering defendants admit the allegations
9 contained therein.

10 50. Answering paragraph 50 of the complaint, answering defendants generally and
11 specifically deny the allegations contained therein.

12 51. Answering paragraph 51 of the complaint, answering defendants lack sufficient
13 information or belief to admit or deny the allegations contained therein and, on that
14 basis, generally and specifically deny said allegations.

15 52. Answering paragraph 52 of the complaint, answering defendants lack sufficient
16 information or belief to admit or deny the allegations contained therein and, on that
17 basis, generally and specifically deny said allegations.

18 53. Answering paragraph 53 of the complaint, answering defendants generally and
19 specifically deny the allegations contained therein.

20 54. Answering paragraph 54 of the complaint, answering defendants lack sufficient
21 information or belief to admit or deny the allegations contained therein and, on that
22 basis, generally and specifically deny said allegations.

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25 **SECOND CAUSE OF ACTION**
26 **(Declaratory Relief under Amendments V and XIV to the United States Constitution- Due**
27 **Process Clauses - Against All Defendants)**
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1 55. Answering paragraph 55 of the complaint, answering defendants incorporate by
reference their prior responses to the allegations referenced in this paragraph.

2 56. Answering paragraph 56 of the complaint, answering defendants lack sufficient
3 information or belief to admit or deny the allegations contained therein and, on that
4 basis, generally and specifically deny said allegations.

5 57. Answering paragraph 57 of the complaint, answering defendants generally and
6 specifically deny the allegations contained therein.

7 58. Answering paragraph 58 of the complaint, answering defendants generally and
8 specifically deny the allegations contained therein.

9 59. Answering paragraph 59 of the complaint, answering defendants admit the allegations
10 contained therein.

11 60. Answering paragraph 60 of the complaint, answering defendants generally and
12 specifically deny the allegations contained therein.

13 61. Answering paragraph 61 of the complaint, answering defendants lack sufficient
14 information or belief to admit or deny the allegations contained therein and, on that
15 basis, generally and specifically deny said allegations.

16 62. Answering paragraph 62 of the complaint, answering defendants lack sufficient
17 information or belief to admit or deny the allegations contained therein and, on that
18 basis, generally and specifically deny said allegations.

19 63. Answering paragraph 63 of the complaint, answering defendants generally and
20 specifically deny the allegations contained therein.

21
22 **THIRD CAUSE OF ACTION**
23 **(Wrongful Foreclosure against All Defendants)**
24

25 64. Answering paragraph 64 of the complaint, answering defendants incorporate by
26
27
28

reference their prior responses to the allegations referenced in this paragraph.

65. Answering paragraph 65 of the complaint, answering defendants lack sufficient information or belief to admit or deny the allegations contained therein and, on that basis, generally and specifically deny said allegations.

66. Answering paragraph 66 of the complaint, answering defendants generally and specifically deny the allegations contained therein.

67. Answering paragraph 67 of the complaint, answering defendants lack sufficient information or belief to admit or deny the allegations contained therein and, on that basis, generally and specifically deny said allegations.

68. Answering paragraph 68 of the complaint, answering defendants generally and specifically deny the allegations contained therein.

69. Answering paragraph 69 of the complaint, answering defendants generally and specifically deny the allegations contained therein.

70. Answering paragraph 70 of the complaint, answering defendants lack sufficient information or belief to admit or deny the allegations contained therein and, on that basis, generally and specifically deny said allegations.

71. Answering paragraph 71 of the complaint, answering defendants lack sufficient information or belief to admit or deny the allegations contained therein and, on that basis, generally and specifically deny said allegations.

72. Answering paragraph 72 of the complaint, answering defendants lack sufficient information or belief to admit or deny the allegations contained therein and, on that basis, generally and specifically deny said allegations.

73. Answering paragraph 73 of the complaint, answering defendants lack sufficient information or belief to admit or deny the allegations contained therein and, on that basis,

generally and specifically deny said allegations.

74. Answering paragraph 74 of the complaint, answering defendants lack sufficient information or belief to admit or deny the allegations contained therein and, on that basis, generally and specifically deny said allegations.

FOURTH CAUSE OF ACTION
(Violation of NRS 116.113 et seq - Against the HOA and Alessi)

75. Answering paragraph 75 of the complaint, answering defendants incorporate by reference their prior responses to the allegations referenced in this paragraph.

76. Answering paragraph 76 of the complaint, answering defendants generally and specifically deny the allegations contained therein.

77. Answering paragraph 77 of the complaint, answering defendants lack sufficient information or belief to admit or deny the allegations contained therein and, on that basis, generally and specifically deny said allegations.

FIFTH CAUSE OF ACTION
(Intentional Interference with Contract against All Defendants)

78. Answering paragraph 78 of the complaint, answering defendants incorporate by reference their prior responses to the allegations referenced in this paragraph.

79. Answering paragraph 79 of the complaint, answering defendants lack sufficient information or belief to admit or deny the allegations contained therein and, on that basis, generally and specifically deny said allegations.

80. Answering paragraph 80 of the complaint, answering defendants generally and specifically deny the allegations contained therein as to the HOA and Alessi; as to SFR, answering defendants lack sufficient information or belief to admit or deny the allegations contained therein and, on that basis, generally and specifically deny said allegations.

81. Answering paragraph 81 of the complaint, answering defendants generally and specifically deny the allegations contained therein.

82. Answering paragraph 82 of the complaint, answering defendants lack sufficient information or belief to admit or deny the allegations contained therein and, on that basis, generally and specifically deny said allegations.

83. Answering paragraph 83 of the complaint, answering defendants lack sufficient information or belief to admit or deny the allegations contained therein and, on that basis, generally and specifically deny said allegations.

84. Answering paragraph 84 of the complaint, answering defendants generally and specifically deny the allegations contained therein as to the HOA and Alessi; as to SFR, answering defendants lack sufficient information or belief to admit or deny the allegations contained therein and, on that basis, generally and specifically deny said allegations.

85. Answering paragraph 85 of the complaint, answering defendants lack sufficient information or belief to admit or deny the allegations contained therein and, on that basis, generally and specifically deny said allegations.

SIXTH CAUSE OF ACTION
(Quiet Title - Against All Defendants)

86. Answering paragraph 86 of the complaint, answering defendants incorporate by reference their prior responses to the allegations referenced in this paragraph.

87. Answering paragraph 87 of the complaint, answering defendants generally and specifically deny the allegations contained therein.

88. Answering paragraph 88 of the complaint, answering defendants lack sufficient information or belief to admit or deny the allegations contained therein and, on that

basis, generally and specifically deny said allegations.

89. Answering paragraph 89 of the complaint, answering defendants lack sufficient information or belief to admit or deny the allegations contained therein and, on that basis, generally and specifically deny said allegations.

90. Answering paragraph 90 of the complaint, answering defendants lack sufficient information or belief to admit or deny the allegations contained therein and, on that basis, generally and specifically deny said allegations.

91. Answering paragraph 91 of the complaint, answering defendants lack sufficient information or belief to admit or deny the allegations contained therein and, on that basis, generally and specifically deny said allegations.

92. Answering paragraph 92 of the complaint, answering defendants lack sufficient information or belief to admit or deny the allegations contained therein and, on that basis, generally and specifically deny said allegations.

93. Answering paragraph 93 of the complaint, answering defendants lack sufficient information or belief to admit or deny the allegations contained therein and, on that basis, generally and specifically deny said allegations.

AFFIRMATIVE DEFENSES

Defendants affirmatively allege that they have not yet had a reasonable opportunity to complete discovery, and facts hereinafter may be discovered which may substantiate other affirmative defenses not listed below. By this Answer to Plaintiff's Complaint, Defendants do not waive any affirmative defenses and reserve the right to amend the Answer to insert any subsequently discovered affirmative defenses.

FIRST AFFIRMATIVE DEFENSE
(Statute of Limitations)

Defendants allege that Plaintiff's claims are barred, in whole or in part, because the statute of limitations on said claims expired before the initiation of Plaintiff's action against Defendants.

SECOND AFFIRMATIVE DEFENSE
(Failure to State a Claim)

Defendants allege that Plaintiff has failed to state facts sufficient to constitute any cause of action against Defendants.

THIRD AFFIRMATIVE DEFENSE
(Failure to Mitigate Damages)

Defendants allege that Plaintiff's claims are barred, in whole or in part, because of Plaintiff's failure to take reasonable steps to mitigate the damages alleged in the Complaint, if any, even though Plaintiff had the opportunity and means of doing so. In asserting this affirmative defense, Defendants do not admit liability for damages due to Plaintiff's injury alleged in the Complaint, nor do Defendants admit that such damages exist.

FOURTH AFFIRMATIVE DEFENSE
(Equitable Defense, Laches, Unclean Hands, Failure to Do Equity)

Defendants allege that Plaintiff's claims are barred by the equitable doctrines of laches, unclean hands, and failure to do equity.

FIFTH AFFIRMATIVE DEFENSE
(Breach of Contract)

Defendants allege that Plaintiff substantially and materially breached the obligations/contract complained of prior to commencement of this action, which conduct extinguishes the right to maintain this action.

SIXTH AFFIRMATIVE DEFENSE
(Bad Faith)

Defendants allege that Plaintiff's Complaint is filed in bad faith and has no merit.

**SEVENTH AFFIRMATIVE DEFENSE
(Defendants Acted in Good Faith)**

Defendants are excused from any and all liability under the facts alleged in Plaintiff's claims for relief because at all material times, Defendants acted in good faith and conducted all material transactions in good faith.

**EIGHTH AFFIRMATIVE DEFENSE
(Plaintiff Not Entitled to Relief)**

Defendants deny that Plaintiff is entitled to any relief for which it prays.

**NINTH AFFIRMATIVE DEFENSE
(Privilege)**

Defendants allege that Plaintiff's claims are barred, in whole or in part, on the ground that Defendants' conduct as alleged in Plaintiff's Complaint was privileged.

**TENTH AFFIRMATIVE DEFENSE
(Plaintiff's Own Negligence)**

Plaintiff is barred from recovery, or said recovery, if any, must be proportionately reduced, as any injury or damage allegedly suffered by Plaintiff occurred as a proximate result of the negligence on its own part, in that Plaintiff failed to exercise ordinary care on its own behalf at the time and place alleged.

**ELEVENTH AFFIRMATIVE DEFENSE
(Comparative Fault)**

Defendants allege that Plaintiff was careless and negligent with respect to all matters alleged by it in its Complaint and thus was comparatively at fault and proximately caused its own damages. Accordingly, any damages otherwise recoverable by Plaintiff, if any, should be reduced in proportion to its own negligence or omission.

TWELFTH AFFIRMATIVE DEFENSE
(Assumption of Risk)

Plaintiff, at all material times, calculated, knew, and understood the risks inherent in the situations, actions, omissions, and transactions upon which it now bases its various claims for relief, and with such knowledge, Plaintiff undertook and thereby assumed such risk and is consequently barred from all recovery by such assumption of risk.

THIRTEENTH AFFIRMATIVE DEFENSE
(No Proximate Cause)

The acts or omissions of Defendants alleged in Plaintiff's claims for relief were not a proximate cause of the loss or damage for which Plaintiff seeks recovery.

FOURTEENTH AFFIRMATIVE DEFENSE
(Suffered No Damages)

Defendants allege that Plaintiff's claims are barred because Plaintiff suffered no damages as a result of the allegations in the Complaint.

FIFTEENTH AFFIRMATIVE DEFENSE
(Plaintiff's Omissions)

Defendants allege that, by reason of Plaintiff's own acts and omissions, Plaintiff has waived its right to assert the claims it has asserted against Defendants.

SIXTEENTH AFFIRMATIVE DEFENSE
(Additional Affirmative Defenses)

Pursuant to Federal Rules of Civil Procedure 8 and 12, Defendants reserve the right to assert additional affirmative defenses in the event discovery and/or investigation discloses the existence of other affirmative defenses.

/ / /

/ / /

PRAYER FOR RELIEF

WHEREFORE, Defendants pray for judgment as follows:

1. That Plaintiff recovers nothing on account of the claims made in its Complaint against Defendants;
2. That Plaintiff's entire Complaint against Defendants be dismissed with prejudice;
3. For reasonable attorney's fees and costs of suit incurred herein; and
4. For such other and further relief as the Court may deem just and proper.

DATED this 12th day of June, 2015.

ALESSI & KOENIG, LLC

By: /s/ Vanessa S. Goulet, Esq.
Vanessa S. Goulet, Esq.
Nevada Bar No. 13688
ALESSI & KOENIG, LLC
9500 West Flamingo Road, Suite 205
Las Vegas, Nevada 89147-5721
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Fax: (702) 222-4043
E-Mail: vanessa@alessikoenig.com
Attorney for Defendants
FIESTA DEL NORTE
HOMEOWNERS ASSOCIATION
and ALESSI & KOENIG, LLC

CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of June, 2015, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF system for filing and transmittal of a Notice of Electronic filing to the following CM/ECF registrants:

Wayne Klomp, Esq.
SNELL & WILMER, L.L.P.
3883 Howard Hughes Parkway, Suite 1100
Las Vegas, NV 89169
Attorney for Plaintiff,
WELLS FARGO BANK, N.A.

Diana S. Cline, Esq.
Jacqueline A. Gilbert, Esq.
HOWARD KIM & ASSOCIATES
1055 Whitney Ranch Drive, Suite 110
Henderson, Nevada 89014
Attorneys for Defendant
SFR Investments Pool 1, LLC

/s/ Jona L. Lepoma
An employee of Alessi & Koenig